THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10136 of 2007

10.7.2007

Between:

Kotikala Joshi, S/o.Thomas
And others

… Petitioner

AND

State of Andhra Pradesh, represented by its
District Collector, Guntur, Guntur District
And others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10136 of 2007

ORDER:

The petitioners filed the writ petition seeking a writ of Mandamus declaring the action of the respondents in trying to dispossess them from various extents of lands in survey Nos.516/2, 516/4, 516/6 and 519/1 to 3 situated at Chowdavaram village of Guntur Rural Mandal, as illegal and arbitrary. They also sought a consequential direction to the respondents not to evict them.

The case of the petitioners is as follows. They purchased various extents of land in survey Nos.516/2, 516/4, 516/6 and 519/1 to 3 under different registered sale deeds in December 2006. They also made enquiries before purchasing the property. They approached the fourth respondent Gram Panchayat and got a layout approved vide resolution dated 10.1.2007 after paying a sum of Rs.1,63,200/- towards security deposit and Rs.20,000/- towards layout fee. They assert that the amount paid towards layout fee was remitted to the account of the Director of Town Planning, Hyderabad, on 21.3.2007. It is the allegation of the petitioners that staff of the third respondent came to their lands and informed the neighbours that steps are being taken by the respondents to resume the land purchased by the petitioners as it is assigned land. The petitioners and others then made enquiries in the office of the third respondent. They came to know that without issuing notice under Andhra Pradesh Assigned Land (Prohibition of Transfers) Act, 1977 (the Act, for brevity) and Andhra Pradesh Assigned Land (Prohibition of Transfers) Rules, 2007 (the Rules, for brevity), the respondents are going to dispossess them. Therefore, the present writ petition is filed, contending that as no notice is issued they would not be able to explain their position and that any highhanded dispossession would be illegal and arbitrary.

The writ petition was filed in vacation court and this Court granted *status quo* on 09.5.2007 while directing learned Assistant Government Pleader for Revenue (General-A) to file counter. Accordingly, a counter affidavit is filed by the third respondent. It is

stated that as per the resettlement register, land comprised in survey No s.516/2, 516/4, 516/6 and 519/1 to 3 is Government poramboke land, classified as assessed waste. The same was assigned in favour of landless poor persons including Smt.Veeravalli Varalakshmi Devi, J.Ramakoteswara Rao and Oruganti Rajendra Prasad in January 2007. An inspection was conducted to know whether the Government poramboke lands assigned are in actual possession of the assignees. It was noticed that the land in survey No s.516/2, 516/4, 516/6 and 519/1 to 3 is in possession of third parties. Therefore, the action was initiated under the provisions of the Act and notice was issued in Form-I of the Rules. Notice was served on 26.2.2007 but no explanation was submitted. Therefore, the Tahsildar issued proceeding in Rc.No.412/2007-D, dated 20.4.2007, canceling the assignment and ordering resumption of the land to the Government. A copy of the proceedings of the Tahsildar is also annexed to the counter affidavit.

Learned Counsel for the petitioners submits that even when action is initiated for contravention of Section 3(2) of the Act as revealed under Rule 3 of the Rules, it is necessary to issue notice in Form-II to the persons who have acquired assigned lands. In the absence of such notice, orders of resumption passed by the Tahsildar on 20.4.2007 behind back of the petitioners is unsustainable.

The counter affidavit does not deny nor the learned Assistant Government Pleader disputes that no notice in Form-II is issued to the petitioner before passing the resumption order. Learned Assistant Government Pleader submits that pursuant to the resumption order passed by the Tahsildar, possession was taken in April 2007 itself. In a situation like this, this Court at this stage is not inclined to set aside the order of the Tahsildar resuming the land, as the same is not specifically challenged. Learned Counsel for the petitioners does not dispute that against the order of resumption passed by the Tahsildar under Section 4 of the Act, appeal would lie to the Revenue Divisional Officer (RDO), under Section 4-A of the Act. Therefore, in the facts and circumstances of this case, this would be appropriate redressal mechanism for the petitioners. Liberty is given to them to file appeal within a period of ten days from the date of receipt of a copy of this order. As and when such appeals are filed, the RDO may pass appropriate orders. There shall be *status quo* as on today with regard to possession of the land. This Court also observes that the petitioners shall not create any third party rights nor transfer nor alienate the land in favour of third parties.

The writ petition, with the above observations, is accordingly disposed of. No costs.

_____

(**V.V.S.RAO, J**)

July 10, 2007

NOTE:

Dispatch order copy by 16.7.2007.
(By order) YS